IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

MFA.No. 780 of 2000()

(AGAINST THE ORDER IN IC.5/1996 of ESI COURT,IDUKKI)
.....

APPELLANT: APPLICANT IN I.C.NO.5/96:

**KAROOR VILLAGE INDUSTRIES (WORKSHOP)
CO-OPERATIVE SOCIETIES LTD.NO.KB.IND(K)19,
CHERPUNKAL P.O., PIN – 686 584 REPRESENTED BY ITS
PRESIDENT, MR. JOSE JOSEPH.**

BY ADV. SRI.A.V.XAVIER

RESPONDENTS: OPP.PARTIES IN I.C.NO.5/96:
----

1. **THE EMPLOYEES STATE INSURANCE CORPORATION,
PANCHDEEP BHAVAN, TRICHUR – 680 020 REPRESENTED BY
ITS REGIONAL DIRECTOR.**

2. **THE RECOVERY INSPECTOR,
OFFICE OF THE RECOVERY OFFICER, E.S.I.CORPORATION,
PANCHDEEP BHAVAN, TRICHUR – 680 020.**

BY ADV. SRI.P.SANKARANKUTTY NAIR for R1 & R2

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

M.F.A.NO.780/2000

ORDER ON C.M.P.NO.4279/2000 IN M.F.A.NO.780/2000

DISMISSED

28/05/2007 **SD/- J.B.KOSHY, JUDGE**

SD/- K.P.BALACHANDRAN, JUDGE

/TRUE COPY/

KSS

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A.No.780 of 2000

Dated this the 28th day of May, 2007

Judgment

Koshy, J.

Appellant is conducting an establishment for the manufacture of bone meal. It is a unit of Khadi and Village Industries aided by the Khadi Board. ESI Inspector conducted an inspection and found that more than ten persons were employed and, therefore, coverage notice was issued. It is the contention of the appellant that number of the coverable employees were only eight and that can be seen from the report of the Inspector itself and the Supreme Court in the decision reported in Employees State Insurance Corporation v. M.M. Suri and Associates (P) Ltd. (1999 (1) LLJ 13) held that for the purpose of coverage, only coverable employees need be counted. It is also contended that not even a single day he had employed ten or more persons. It is further pointed out that what is shown in Ext.B11 is wages paid in a week and not in a day and appellant asserts that only less than nine employees including casual employees were employed in a single day and, therefore, it is not

covered. On going through the award, we are of the opinion that there was no clear finding whether more than ten persons were employed in the establishment on any single day. In the above circumstances, we set aside the award and remand the matter to the Employees' Insurance Court for finding out whether appellant has employed more than nine coverable employees on any single day during the relevant period. Without expressing any opinion regarding the merits of the matter, the Employees Insurance Court is directed to give a definite finding to the above aspect and dispose the matter as expeditiously as possible.

Appeal is remanded. Parties shall appear before the Employees Insurance Court on 23.7.2007.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.780/2000

JUDGMENT

Dated:28th May, 2007